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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/023,333 | 12/12/2001 | Thomas R. Tudor | SEA-147-D | 4153 |

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ATTN: Andrew R. Basile
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084-3107

EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

3751

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

**Advisory Action
After the Filing of an Appeal Brief**

Application No.

10/023,333

Applicant(s)

TUDOR ET AL.

Examiner

Robert M. Fetsuga

Art Unit

3751

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 17 November 2005 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).


b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief. See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The claims will remain rejected as set forth in paragraphs 7-9 in the Office action mailed May 23, 2005. While new matter appears to remain in the specification, such does not materially affect appeal of the rejected claims as amended. Lastly, the rejection mailed May 23, 2005 was properly made final as the initially unentered amendment filed December 23, 2002 was ultimately entered as noted in the May 23, 2005 Office action. That amendment affected the scope of the claim terminology. In any event, the claims were initially rejected over the Miller reference in the Office action mailed April 29, 2002.



**ROBERT M. FETSUGA
PRIMARY EXAMINER**